

Police Oversight Commission

City of Albuquerque
Independent Review Office

First Quarter Report 2008

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Chairman's Perspective

I have just been elected Chairman of the Police Oversight Commission after serving as the Vice Chair for the previous year. The service on the Police Oversight Commission has been instructive to me and has given me considerable insight into the problems involved in the multitude of interactions between our citizens and the Albuquerque Police Department. The investigative function of the Commission and the cooperation we have received from Chief Schultz and his command staff have given us advantages rarely available to police oversight organizations. The police know we are here and, increasingly, so do the citizens. Trying to monitor the regulated boundaries set up for the police to work in is an ongoing challenge. Community support is a necessary part of having an effective police department. Police work is demanding and sometimes dangerous. It takes real dedication on the part of the men and women of the Albuquerque Police Department to monitor and exercise some degree of control over our expanding and very diverse citizenry. In that effort, support and mutual respect are necessary corollaries for having an effective police force. Although the influence of the Police Oversight Commission on the Albuquerque Police Department is often subtle, it is increasingly effective as we have more acceptance and productive interaction with the individual police officers in our oversight function.

Our City Officials routinely refer police conduct complaints to our Independent Review Office. Their confidence encourages us in believing that our efforts in improving police-community relations are making progress. The volunteer service of the Police Oversight Commission allows us to contribute to this goal.

John Bulten, Chair
Police Oversight Commission

Executive Summary

Mission Statement

The mission of the Police Oversight Commission (POC) is to provide a means for prompt, impartial, and fair investigation of all citizen complaints brought by individuals against the Albuquerque Police Department (APD), and to provide for community participation in setting and reviewing police department policies, practices and procedures. The Independent Review Officer (IRO) works with the POC and APD to ensure that (1) citizen complaints are thoroughly investigated, (2) citizens have a fair opportunity to appeal the results, and (3) APD policies are changed to prevent the recurrence of problems identified through the complaint process.

Complaints Filed During First Quarter

There were 50 complaints filed this quarter. Citizen complaints have identified problems with the Prisoner Transfer Center, completion of use of force forms, individual officers and numerous policy issues.

Appeals

Three appeals were heard by the Police Oversight Commission this quarter. The POC agreed with the IRO and Chief on all of the appeal findings.

Three appeals are scheduled for the April meeting

Policy Reviews

The Long Term Planning Committee reviews all complaints where the IRO and the Chief disagree before the cases are heard by the full POC. During the First Quarter, one non-concurrence was heard by the LTTC and that non-concurrence will be heard by the Police Oversight Commission in April. The LTTC considered certain rule changes which were made on their recommendation to the POC.

Rule Changes

The Police Oversight Commission has adopted a mediation rule which sets certain standards and which makes mediation an exclusive remedy when it is selected and begun by the parties. Another rule will bar most third party complaints; i.e., complaints filed by persons who did not actually witness the questioned police conduct, and who are not appearing on behalf of a minor or otherwise incapacitated person.

INFORMATION CONCERNING THE PROCESS

I. Responsibilities of the POC and IRO

The purpose of the police oversight system is to provide a means for prompt, impartial, and fair investigation of all citizen complaints brought by individuals against the Albuquerque Police Department (APD), and to provide for community participation in setting and reviewing police department policies, practices and procedures.

The Police Oversight Commission (POC) is composed of nine volunteers who broadly represent the diversity of the City. The Commission is chaired by John Bulten, and Linda Martinez is the vice chair. The POC has been charged to perform the following functions.

6. To promote a spirit of accountability and communication between the citizens and APD while improving community relations and enhancing public confidence.
7. To oversee the full investigation and/or mediation of all citizen complaints; audit and monitor all investigations and/or police shootings under investigation by APD's Internal Affairs (IA).
8. To gain the cooperation of APD and solicit public input by holding regularly scheduled public meetings
9. To review all work of the Independent Review Office (IRO) with respect to quality, thoroughness, and impartiality of investigations.
10. Submit a quarterly report to the Mayor and City Council
11. Submit all findings to the Chief of Police.
12. To engage in a long-term planning process through which it identifies major problems and establishes a program of policy suggestions and studies each year

The Long Term Planning Committee (LTPC) of the POC consists of four commissioners and is chaired by Ira Rimson. These meetings are open to the public. The LTPC conducts detailed reviews of issues referred to them by the POC.

The Independent Review Officer is an inactive attorney who manages the Independent Review Office and its staff. The IRO is given autonomy and performs the following duties under the direction of the POC.

1. The IRO receives all citizen complaints directed against APD and any of its officers. The IRO will review the citizen complaints and assign them to be investigated by IRO independent investigators or to Internal Affairs.

2. The IRO will oversee, monitor and review all of those investigations and make findings for each. These findings are reviewed by the chain of command of the Albuquerque Police Department and, if agreement is reached by the Chief of Police and the Independent Review Officer, forwarded to the POC for their approval. When there is no agreement between APD and the IRO, the matter is presented to the Police Oversight Commission as a “non-concurrence”, and the Commission then makes its findings,
3. The IRO makes recommendations and gives advice regarding APD policies and procedures to the POC, City Council, APD, and the Mayor.
4. An impartial system of mediation may be used for certain complaints.
5. The IRO monitors all claims of excessive force and police shootings and is an ex-officio member of the Claims Review Board.
6. The IRO ensures that all investigations are thorough, objective, fair, impartial, and free from political influence.
7. The Independent Review Office maintains and compiles information sufficient to satisfy the POC’s quarterly reporting requirements.
8. The IRO and his/her staff shall play an active public role in the community and provide appropriate outreach to the community; publicizing the citizen complaint process and the locations within the community that are suitable for citizens to file complaints in a non-police environment.

II. Processing Complaints Against The Police

Any person may file a written complaint against APD or any of its officers. All complaints must be signed by the complainant as required by the union contract. These written complaints can be sent to:

- a. The IRO’s website at www.cabq.gov/iro.
- b. At the IRO office at Room 813, Plaza del Sol, 600 2nd St, NW.
- c. Mail to IRO, P.O. Box 1293, Albuquerque, NM 87103, or
- d. Internal Affairs, Albuquerque Police Department..

Complaint forms and the Ordinance establishing the POC and the IRO are available on the IRO website (see above).. Complaint forms are also available at the IRO office, at City libraries, homeless shelters, police substations, and the Internal Affairs Unit of APD. The complaints may be filed with the city staff. All complaints will be forwarded to the IRO.

When the IRO receives a complaint, the complaint is entered into the IRO’s case management database and assigned a unique Citizen Police Complaint (CPC) number. The IRO reviews the complaint and assigns the case to the IRO investigators or Internal Affairs. Upon completion of the investigation, the IRO reviews the investigation for thoroughness, impartiality, and fairness. The IRO will also consider and determine recommendations by the investigators as to which APD Standard Operating Procedures (SOPs) the citizen alleged to be violated; and what are the appropriate findings and conclusions based on the evidence developed in the investigation. Findings are based on a preponderance of the evidence.

Definitions of complaint dispositions are as follows:

1. Sustained: APD Member is determined to have committed the alleged violation.
2. Not Sustained: It cannot be determined by a preponderance of the evidence whether the member did or did not commit the alleged violation.
3. Unfounded: Member did not commit the alleged violation.
4. Exonerated: Member was justified in taking the course of action alleged and/or member was operating with the guidelines of the law or SOPs.
5. Inactivated: Complaint was determined to not merit further investigation. Complaints can be inactivated for several reasons, including; failure to allege a violation of SOPs, submitting a complaint over 90 days after the incident, complaint is not against APD members, the APD member cannot be identified, or the case was successfully mediated.

*Mediation has been very successful. Chief Schultz formalized a pilot mediation program. Five selected lieutenants and sergeants received mediation training. Mediated complaints are inactivated. Therefore, the number of inactivated complaints has increased substantially

The IRO's findings are reviewed by the Police chain of command and then, if there is agreement between the Chief of Police and the IRO; sent to the Police Oversight Commission in the form of a Public Record Letter to be sent to the citizen.. If the Chief of Police disagrees with the IRO's findings, the POC decides the matter after hearing both sides. A Public Record Letter stating the findings is then sent to the complainant by certified mail The Chief of Police has sole disciplinary authority over police department personnel.

If the citizen who filed the complaint is dissatisfied with the findings, he may appeal that decision to the POC. The appeal must be made within ten business days from the date the citizen receives the aforementioned public record letter from the IRO or POC. Appeals and non-concurrences are heard during the POC's monthly televised meetings which are open to the public. Upon appeal, the POC may adopt or change the findings and recommendations of the IRO and may make further recommendations to the Chief. If the citizen is still not satisfied with the action of the POC or the Chief of Police, the citizen may request a review by the Chief Administrative Officer (CAO) within 10 business days.

The process is a very transparent process and subject to public scrutiny. The administration, city councilors, and citizens of Albuquerque have created a system of civilian oversight of the police department that they can be proud of. The passage of the amendments to the Police Oversight Ordinance in 2004 has improved the system.. Our City Council has given us one of best operating oversight systems in the United States and it is unique to Albuquerque.

III. Timeliness of Investigating Citizen Complaints

In the first quarter of 2008 we have received 50 complaints. With our three investigators, the IRO office is investigating almost all complaints. A few complaints have been referred to Internal Affairs for investigation. The IRO has no cases pending over 90 days.

IV. Sustained Allegations

In 2001, 53 complaints were sustained. 39 were sustained in 2002, while eighteen of those cases were sustained in the last three months of 2002. 49 complaints were Sustained from 2003 and 62 citizen complaints were sustained in 2004. Three police shooting investigations were sustained by the POC, but one was reversed on appeal by the CAO. In 2005, 68 citizen complaints and 8 police shootings have been sustained for procedural violations as of this report. In 2006, 73 complaints were sustained. In 2007, 89 complaints were sustained. In the first quarter of 2008, 17 complaints have been sustained.

V. Detailed Complaint Information, Part I-IX.

The following detailed information is the same type of information and in the same format that was compiled in the annual reports for 2000-2007.

Geographic Distribution of Complaints

Following is a list of the number of CPCs by City Council District (after redistricting) and Neighborhood Association boundaries.

<u>City Council District</u>	<u>Neighborhood Association Boundary</u>	<u># of CPCs</u>
City Council District: 1	Westgate Hts.	1
		Total: 1
City Council District: 2	Bel-Air	1
	Unknown	1
		Total: 2
City Council District: 6	PARKLAND HILLS	2
	SOUTH SAN PEDRO	1
		Total: 3
City Council District: 8	MATHESON PARK	1
	Unknown	1
		Total: 2
City Council District: 9	Unknown	2
		Total: 2
Unknown City Council District:	unknown	4
	Unknown/ NA	1
	Unknown/NA	11
	Unnkown	1
	Unnkown/NA	1
		Total: 18
No City Council District:	unknown	6
	unknown/ NA	1
	Unknown/NA	10
		Total: 17

Alleged SOP Violations

Standard Operating Procedures (SOPs) provide written directives to guide and direct Department personnel in the performance of their duties. The specific narrative of the Standard Operating Procedures implicated by the citizen complaints submitted this year are set forth in Part V of this Report. The following is a general description of the types of SOP violations alleged in the complaints. This general description is provided for informational purposes only.

Because officer attitude and language are a frequent source of complaint, details of those types of complaints have been listed. Please note some allegations fall into more than one category, or there may be more than one allegation per case.

Alleged SOP Violations

General Description of SOP

<u>Violation</u>	<u>Total</u>
	0
Attitude	3
Harassment	4
Language	3
Misconduct	28
Other	3
Procedure	8
Racial Profiling	2
Unnecessary/Excessive Force	8

CPC Investigation Outcomes by Alleged SOP Violation

The following section indicates the outcome of a CPC investigation with regard to the number of findings for a SOP violation. The definition of findings is taken from § 3-43-12 of the SOP Manual. "IRO would find" indicates that during the review process the IRO suggested the specified SOP as a possible violation by the officer.

SOP	Finding	Totals
§ 1-02-2B 2	Exonerated	1
	Pending	2
§ 1-03-2A	Unfounded	1
§ 1-04-1A	Pending	3
§ 1-04-1F	Not Sustained	1
	Pending	4
	Sustained	1
	Unfounded	1
§ 1-04-4U	Exonerated	2
§ 1-04-4Z 2	Sustained	1

§ 1-04-6N	Not Sustained	1
	Pending	1
§ 3-43-10A	Pending	1
	Inactivated	16
Pending	Pending	23
	Inactivated	2
Resolved	Inactivated	2
	Inactivated	1

<u>Incident Report Filed</u>		<u>Belt Tape Used</u>		<u>Medical Assistantance Called</u>	
Yes	11	Unknown*	29	Yes	4
Unknown*	19	No	17	Unknown*	8
No	16			No	34

* Information could not be determined from case file